

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

*In re Subpoena Issued to
Dave's Redistricting App,*

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Misc. No. 2:22-mc-00069-RSL

REPRESENTATIVE JACEY JETTON and
ADAM FOLTZ,

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Movants,

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§
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V.

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UNITED STATES OF AMERICA,

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§
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Respondent.

§

**OPPOSED EMERGENCY MOTION TO STAY SUBPOENA;
UNOPPOSED MOTION TO TRANSFER TO CONSOLIDATED CASES;
OR IN THE ALTERNATIVE OPPOSED MOTION TO QUASH**

This application arises out of the consolidated litigation relating to the redistricting of Texas's legislative districts in response to the 2020 Census. *See League of United Latin American Citizens v. Abbott*, No. 3:21-cv-259 (W.D. Tex.). The United States issued an untimely subpoena *duces tecum* to Dave's Redistricting App, located in Seattle. That subpoena is to be executed this coming Monday, August 15th, 2022. Texas State Representative Jacey Jetton and Adam Foltz, who is employed by the Texas Legislature, created accounts with Dave's, and possess confidential materials they used in furtherance of their legislative duties to draw new electoral maps. The materials are stored on Dave's servers.

Firstly, to allow the Court sufficient time to consider the merits of the motion, Movants respectfully request that the Court stay execution of the subpoena pending decision on the instant motions. In the alternative, and in the event the Court is inclined to transfer this action, Movants request that the Court administratively stay the subpoena until such time as the Texas court has an opportunity to consider the stay motion. Secondly, Movants request that the Court transfer this action to the Western District of Texas, to be consolidated with the lead redistricting case. This same approach was

followed in these cases for two other motions to quash filed outside the home district. *See In re Subpoena to Eric Wienckowski*, No. 7:22-mc-164, ECF 15 (S.D.N.Y. June 23, 2022); *In re Subpoena to Thomas Bryan*, No. 3:22-mc-007, ECF 8 (E.D. Vir. July 5, 2022). In the alternative, Movants request that this Court quash the instant subpoena because it is untimely issued; set to be enforced *after* the discovery deadline (July 15th, 2022) has already closed. The subpoena should also be quashed because it seeks information that is subject to the legislative privilege. Movants' arguments in support of these motions are fully set forth in the accompanying memorandum of law.

Date: August 12, 2022

Respectfully submitted.

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Attorney General of Texas

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**COUNSEL FOR REPRESENTATIVE JACEY JETTON AND
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CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for the United States and counsel for Dave's Redistricting App regarding the issues presented by these motions. Dave's takes no position on the motion to quash or on the motion to stay. It did not advise a position on the motion to transfer. The United States opposes the motion to quash and motion to stay. It consents to the motion to transfer.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

/s/ Jack DiSorbo
JACK B. DISORBO

CERTIFICATE OF SERVICE

I certify that on August 12th I served this motion on all counsel for the United States and counsel for Dave's Redistricting App by email.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

/s/ Jack DiSorbo
JACK B. DISORBO